



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C., 20460

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

Sent via email to rachel.frankel@apks.com

Rachel Frankel
601 Massachusetts Ave NW
Washington, DC 20001

SEP 13 2017

RE: Freedom of Information Act Request No. EPA-HQ-17-010176

Dear Ms. Frankel,

This is in response to your Freedom of Information Act request of August 3, 2017, where you requested the final Creditable Cost Guidance, and any final documents related thereto, created pursuant to Appendix C of the Partial Consent Decree, In re: Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation, Case No: MDL No. 2672 CRB.

I have determined that the records in question may contain confidential business information, trade secrets or commercial or financial information which is exempt from disclosure under 5 U.S.C. 552(b) [Exemption 4]. Pursuant to 40 C.F.R. 2.204(d)(1), your request for information is being initially denied because further inquiry by EPA is required before a final determination can be made. You requested a final determination by phone in August 2017. We will consult with the third party covering these records and the EPA Office of General Counsel will issue a final confidentiality determination.

This letter concludes our response to your request. As noted above, the information withheld under Exemption 4 will be reviewed by the appropriate legal office who will issue a final confidentiality determination. Therefore, you do not need to appeal the withholding of information pursuant to Exemption 4. Once the legal office issues a final confidentiality determination, EPA will notify you whether the information qualifies for confidential treatment or may be released. To the extent you would like to appeal any other issue, including any non-Exemption 4 withholdings, you may appeal this response by email at hq.foia@epa.gov or by mail to the National Freedom of Information Office, U.S. EPA, 1200 Pennsylvania Avenue, N.W. (2822T), Washington, DC 20460 (U.S. Postal Service Only). Only items mailed through the United States Postal Service may be delivered to 1200 Pennsylvania Avenue, N.W. If you are submitting your appeal via hand delivery, courier service or overnight delivery, you must address your correspondence to 1301 Constitution Avenue, N.W., Room 6416J, Washington, DC 20004. Your appeal must be made in writing, and it must be received no later than 90 calendar days from the date of this letter. Appeals received after 5:00 pm EST will be considered received the next business day. The Agency will not consider appeals received after the 90 calendar day limit. The appeal letter should clearly identify the determination being appealed, including the assigned FOIA tracking number shown above. For quickest possible handling, the subject line of your email, the

appeal letter, and its envelope, if applicable, should be marked **"Freedom of Information Act Appeal."** Additionally, you may seek assistance from EPA's FOIA Public Liaison at hq.foia@epa.gov or (202)566-1667, or from the Office of Government Information Services (OGIS). You may contact OGIS in any of the following ways: by mail, Office of Government Information Services, National Archives and Records Administration, Room 2510, 8610 Adelphi Road, College Park, MD, 20740-6001; e-mail, ogis@nara.gov; telephone, 301-837-1996 or 1-877-684-6448; and facsimile, 301-837-0348.

Please contact Meetu Kaul at 202-564-5472 or kaul.meetu@epa.gov, should you have any questions concerning this matter.

Sincerely,


for Phillip A. Brooks, Director
Air Enforcement Division

cc: Peter Bermes